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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF ARIZONA

11 United States of America,
12 Plaintiff,
13 v.
14 David Allen Harbour,
15 Defendant.
16

CR-19-00898-PHX-DLR (DMF)
**GOVERNMENT'S MEMORANDUM
RE: SUPPLEMENTAL PETITION FOR
DEFENDANT'S VIOLATION OF
RELEASE CONDITIONS**
(Assigned to Magistrate Judge Deborah
M. Fine)

17
18 **INTRODUCTION**

19 Defendant David Allen Harbour's ("Harbour") supervising U.S. Pretrial Officer,
20 Tammy Mahan ("Officer Mahan"), has filed a petition alleging a violation of his release
21 conditions. The violations are based on Harbour's failure to seek approval from Officer
22 Mahan before engaging in financial transactions exceeding \$1000. (CR 169) A violation
23 hearing is scheduled for January 12, 2021, before Magistrate Judge Deborah M. Fine. (CR
24 179)

25 The petition for violation fails to include additional allegations that Harbour
26 engaged in, without Officer Mahan's approval, financial transactions exceeding \$1000.
27 Specifically, on or about October 2020, Harbour directed that nearly \$1 million be used to
28 pay tax liens on a property that was subject to forfeiture. Accordingly, the United States

1 is requesting that those transactions be included in any hearing to determine if Harbour
 2 engaged in financial transactions that violated a financial condition of his pretrial release.
 3 (See Exh. A).

4 LAW AND ARGUMENT

5 The Bail Reform Act of 1984 (“Act”), 18 U.S.C. § 3141, et seq., is the statutory
 6 scheme governing the circumstances under which bail may be granted as well as
 7 subsequently revoked. *United States v. Wong*, No. CR 12-00645 LEK, 2012 WL 5464178,
 8 at *2 (D. Haw. Nov. 8, 2012); *United States v. Addison*, 984 F. Supp. 1, 2 (D.D.C. 1997);
 9 see also 18 U.S.C. § 3142(c)(1)(B) & (c)(3) (“The judicial officer may at any time amend
 10 the order to impose additional or different conditions of release.”).

11 Section 3148 addresses the sanctions for violation of conditions of supervised
 12 release. “A person who has been released under section 3142 of this title, and who has
 13 violated a condition of his release, is subject to a revocation of release, an order of
 14 detention, and a prosecution for contempt of court.” 18 U.S.C. § 3148(a). Section 3148
 15 states,

16 (b) Revocation of Release.-*The attorney for the Government may initiate*
 17 *a proceeding for revocation of an order of release by filing a motion with*
 18 *the district court.* A judicial officer may issue a warrant for the arrest of a
 19 person charged with violating a condition of release, and the person shall be
 20 brought before a judicial officer in the district in which such person's arrest
 21 was ordered for a proceeding in accordance with this section. To the extent
 22 practicable, a person charged with violating the condition of release that such
 23 person not commit a Federal, State, or local crime during the period of
 release, shall be brought before the judicial officer who ordered the release
 and whose order is alleged to have been violated. The judicial officer shall
 enter an order of revocation and detention if, after a hearing, the judicial
 officer-

24 (1) finds that there is-

25 (A) probable cause to believe that the person has committed a Federal,
 State, or local crime while on release; or

26 (B) *clear and convincing evidence that the person has violated any other*
 27 *condition of release.* (emphasis added)
 28

1 Here, the government supplements the current petition with other facts that
2 demonstrate that Harbour has violated a condition of his release, namely engaging in
3 financial transactions that exceeds \$1000 without first seeking approval of Officer Mahan.
4 (*See* Exh A)

5 **CONCLUSION**

6 Based on the foregoing, this Court should consider additional evidence that Harbour
7 violated his conditions of release.

8 Respectfully submitted this 8th day of January, 2021.

9 MICHAEL BAILEY
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District of Arizona

11 s/ Kevin Rapp
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16 **CERTIFICATE OF SERVICE**

17 I hereby certify that on this same date, I electronically transmitted the attached
18 document to the Clerk's Office using the CM/ECF system for filing and transmittal of a
19 Notice of Electronic Filing to the following CM/ECF registrants:

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